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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/633,393

07/31/2003

Huei-Yen Liao

USP1990A-TMT

2817

7590

09/27/2004

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EXAMINER

GONZALEZ, MADELINE

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/633,393	Applicant(s) LIAO, HUEI-YEN	
	Examiner Madeline Gonzalez	Art Unit 2859	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

In response to applicant's amendment dated July 12, 2004

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Murray (U.S. 6,324,769).

Murray discloses a strengthened blade tape measure, as shown in Fig. 1, including:

- a tape casing 12 having a receiving cavity and a guider opening 22 communicating with said receiving cavity;
- a retraction unit supported in said receiving cavity;
- a ruler blade 16, having an inner end attached to said retraction unit and an outer end stopped at said guider opening 22, adapted to slidably fold between a storage position and a measuring position, wherein at said storage position, said ruler blade 16 is retracted to receive in said receiving cavity in a coil flattened configuration manner via said retraction unit, and at said measuring position, said outer end of said ruler

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blade 16 is slidably pulled to extend said ruler blade 16 in a concave-convex configuration out of said receiving cavity through said guider opening 22;

- said ruler blade 16 having a width in said flattened configuration thereof having a dimension within a range of 23-38mm, a height in said concave-convex configuration thereof having a dimension within a range of 6.35-10.16mm (9-12mm), and a thickness thereof having a dimension of 0.11-0.16mm, such that said ruler blade 16 is capable of standing out from said tape casing 12 with a measuring length at least 10 feet in a self-sustaining manner so as to prevent said ruler blade 16 from buckling by its own weight;
- wherein said ruler blade 16 has a longitudinal central portion 36 and two longitudinal side portions 38 integrally extended from two sides of said central portion 36 of said ruler blade 16 respectively, wherein each of said side portions 38 of said ruler blade 16 has a curvature smaller than a curvature of said central portion 36 of said ruler blade 16, wherein said central portion 36 of said ruler blade 16 has a width in said concave-convex configuration thereof having certain dimension, and a height in said concave-convex configuration thereof having certain dimension;
- wherein said curvature of said central portion 36 of said ruler blade 16 is defined that a central projecting radius of said central portion 36 of said ruler blade 16 is 15mm and a central projecting angle of said central portion of said ruler blade 16 is 84 degrees, wherein said curvature of each of said side portion 38 of said ruler blade 16 is defined that a side projecting radius of said side portion of said ruler blade 16 is 30mm; and

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- wherein said curvature of each of said side portions 38 of said ruler blade 16 is defined that a side projecting radius of said side portion 38 of said ruler blade 16 is 45mm.

Murray lacks the specific range of the ruler blade width in the flattened configuration, the specific thickness of the blade, the specific ruler blade widths in the flattened configuration, the specific heights of the blade in the concave-convex configuration, the specific range of the central portion width, the specific range of the central portion height, the specific side projecting angles of the side portion, the specific radius of the central portion, and the specific central projecting angle of the central portion.

With respect to the specific range of the ruler blade width in the flattened configuration, the specific range of the central portion width, and the specific range of the central portion height: Murray discloses a tape measure having a ruler blade, said blade having a width in a flattened configuration within a range of 23-38mm, and a central portion of said blade having a width and a height, as shown in Fig. 7. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the particular ranges claimed by applicant, i.e., said ruler blade having a width in said flattened configuration thereof having a dimension within a range of 41-42mm; said central portion of said ruler blade has a width in said concave-convex configuration thereof having a dimension within a range of 20-22mm; and a height in said concave-convex configuration thereof having a dimensions within a range of 3-4mm, since it has been held that where the general conditions of a claim are disclosed in the

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prior art, discovering the “optimum range” involves only routine skill in the art. See *In re Aller*, 105 USPQ 233. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the blade disclosed by Murray with a width of 41-42mm and the central portion with a width of 20-22mm in order to increase the stability of the blade.

With respect to the specific thickness of the blade, the specific ruler blade widths in the flattened configuration, the specific heights of the blade in the concave-convex configuration, the specific side projecting angles of the side portion, the specific radius of the central portion, and the specific central projecting angle of the central portion: Murray discloses a tape measure having a ruler blade of a thickness of 0.114-0.16mm, said blade having a width in a flattened configuration within a range of 23-38mm, a height in a concave-convex configuration within a range of 6.35-10.16mm, side portions having side projecting angles, the central portion having a radius of 15mm, and said central portion having a projecting angle of 84 degrees. The specific values claimed by applicant, i.e., a thickness of at least 2mm; ruler widths in the flattened configuration of 41.27mm and 41.29mm; heights of the blade in the concave-convex configuration of 11.34mm, 11.03mm, and 9.75mm; side projecting angles of the side portion of 18.43 and 11.5 degrees; radius of the central portion of 18mm; and central projecting angle of the central portion of 74 degrees, are only considered to be the “ optimum ” values of the thickness, ruler widths in the flattened configuration, heights of the blade in the concave-convex configuration, side projecting angles of the side portion, radius of the central portion, and central projecting angle of the central portion, as stated above, that a person having ordinary skill in the

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art would have been able to determine using routine experimentation based, among other things, on the desired accuracy and since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. See *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the ruler blade disclosed by Murray with the specific values claimed by applicant in order to increase the stability of the ruler when extended.

### *Response to Arguments*

3. Applicant's arguments filed on July 12, 2004 have been fully considered but they are not persuasive.

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to modify Murray is found in the knowledge generally available to one of ordinary skill in the art, since it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide the ruler blade disclosed by Murray with the specific values claimed by applicant in order to increase the stability of the ruler



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when extended. Furthermore, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the "optimum range", and discovering an optimum value of a result effective variable involves only routine skill in the art.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Madeline Gonzalez whose telephone number is (571) 272-2243. The examiner can normally be reached on Monday-Friday (8:00-5:30), alternate Fridays off.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MG



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